



Carlisle District Local Plan Examination

Inspector's Initial Comments / Questions to the Council

I have now substantially completed my initial preparatory work. I set out below a number of procedural matters and initial questions for the Council.

Hearing sessions

A date for the Hearing sessions is yet to be confirmed and will depend to some extent on the Council's response to my questions. Please note that the local planning authority should ensure that the start date for the hearing sessions is notified at least 6 weeks in advance of the sessions commencing.

I will be circulating a separate Matters and Issues paper and a draft Hearings Programme in due course. The examination is based on the matters and issues and not driven by the representations.

I will produce Guidance Notes to outline the nature of the hearing sessions. Those who have sought modifications to the Local Plan and signaled a wish to be heard will be invited to the relevant hearing session(s). There is no formal presentation of evidence or cross-examination; the procedure is an inquisitorial process, with the Inspector asking questions based on the Matters and Issues identified for Examination. The Council and relevant representors will have the opportunity to provide responses to the identified Matters and Issues, to be submitted approximately 2-3 weeks before the hearings commence. There is no need for any legal representation, but lawyers are welcome as a member of a team.

Representations

I note that copies of the representations are displayed on the Council's web site in an electronic form. It is for the Council to decide whether the representations are "duly-made", and also has to decide whether to accept late representations. Late representations which are not formally accepted by the Council are not forwarded to the Secretary of State and the Inspector does not consider them. Please note that I have no discretion to accept late representations.

I have been provided with a list of those representors who have requested an oral hearing on a chapter / policy-by-policy basis.

Initial Questions to the Council

Meeting with representors / Statements of Common Ground

Q1. Is it the Council's intention to have any further discussions with representors? If so, could the Council please confirm when any Statements of Common Ground are likely to be completed?

Core Evidence base

I have received the Submission Documents and Evidence-based Documents and note that these have been provided on the Council's website.

Q2. Is any other substantial work / reports likely to be undertaken for the examination, and if so, what is the timetable for such work?

Dealing with Changes to the Local Plan

In considering any proposed modifications, I will need to take a view whether any are required for soundness/legal compliance reasons. As you will be aware, in order for me to make such 'main modifications', you would need to formally notify me as to whether you wish to request modifications under section 20(7C) of the Planning and Compulsory Purchase Act 2004 (as amended).

In the absence of a request under section 20(7C), my report would be confined to identifying any soundness or legal compliance failures in the Plan and, if there are such failures, recommending non-adoption of the Plan.

Q3. Please give an indication of the Council's position on main modifications?

This would be advantageous to the efficiency of the examination process and the expectation of participants. Deferring a decision to request modifications until a late stage of the examination may risk both time delay and incur additional examination costs.

Minor changes that do not go to the question of soundness or legal compliance are made solely by the Council on adoption and not by the Inspector.

Ministerial Statements

You will be aware that a Written Ministerial Statement (WMS) on support for small-scale developers, custom and self-builders, was issued on 28 November 2014 setting out national policy on Section 106 which should be read alongside the National Planning Policy Framework (the Framework). Relevant changes were also made to planning guidance, with updated and new paragraphs 12-23 added to the planning guidance section on planning obligations as of 28 November 2014. Further updates to paragraphs 12, 13 and 21 were made on 27 February 2015 to make clear that these were changes to national policy and to provide the link to the relevant WMS.

The WMS identifies the changes to national policy with regard to Section 106 planning obligations and has been supported by relevant changes to planning guidance. The 27 February 2015 updates to paragraphs 12, 13 and 21 reiterate that national planning policy defines the specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought from small scale and self-build development, that

those restrictions do not apply to development on Rural Exception Sites, and those circumstances where the vacant building credit should be offered to developers.

Policy HO 4 – Affordable Housing seeks affordable housing provision, within Zone A, on all sites of six units and over. The WMS stipulates that due to the disproportionate burden of developer contributions on small-scale developers, for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought. This will also apply to all residential annexes and extensions. However, for designated rural areas under section 157 of the Housing Act 1985, which includes National Parks and Areas of Outstanding Natural Beauty, authorities may choose to implement a lower threshold of 5-units or less, beneath which affordable housing and tariff style contributions should not be sought. These changes in national planning policy will not apply to rural exception sites which, subject to the local area demonstrating sufficient need, remain available to support the delivery of affordable homes for local people.

Q4. In light of this WMS and the identification of the built-up area of Brampton as Zone C, does Zone A now fully align with a designated rural area such that Policy HO4 is consistent with national policy?

More recently, on 18 June 2015, the Secretary of State published a WMS regarding onshore wind turbine development. The WMS sets out new considerations to be applied to proposed wind energy development so that local people have the final say on wind farm applications. When determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant planning permission if:

- the proposed development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and
- following consultation, it can be demonstrated that the proposal reflects the planning concerns of affected local communities and therefore has their backing.

In applying these new considerations, suitable areas for wind energy development will need to have been allocated clearly in a Local or Neighbourhood Plan.

Policy CC 2 – Energy from Wind is a criterion based policy. It does not allocate suitable areas for wind energy development. It appears, in light of the WMS, that such a criterion based policy would not be effective because it would be impossible for any wind energy proposal to be permitted even if all the criteria were satisfied because it could not satisfy the first consideration set out in the WMS.

If the policy were deleted and any reference to wind turbines that could be inferred from Policy CC1 removed, I suggest there would still be a need for SA of the amendment to the policy, and a consideration of reasonable alternatives. Alternatively, the Council may wish to consider if it wishes to define areas suitable for wind energy development.

Q5. In light of this WMS, can Policy CC2 be regarded as being effective and consistent with national policy? If not, what modifications would be necessary to the Local Plan?

The Council's Five Year Housing Land Supply Position Statement (April 2015) (EB007) sets out various assessment scenarios. The scenarios only include an additional buffer of 5% calculated as a percentage of the base requirement (annual requirement x 5). However, the housing requirement to which the buffer should be applied is, in my view, to include both the base requirement plus the shortfall of housing provision between 2013 and 2015 (post the SHMA). In other words:

Local Plan's Base Requirement	+	Shortfall (under provision from Evidence base to adoption Date)	+	Buffer	=	5 year housing land supply target
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Q6. Could the Council please provide further supplementary five-year housing land supply calculations applying the 5% buffer to the sum of the base requirement + shortfall (2013-2015)? (In doing so, it would also be prudent to acknowledge the indication that proposed allocated site U19 is to be withdrawn by the land owner and so will not therefore be deliverable in years 0 – 5)

Figure 2.19 of the Strategic Housing Market Assessment Update (September 2014) (EB002) (SHMA) indicates that there has been an under delivery of housing when measured against the relevant housing requirements, since 2006/07. I note that the Council considers that this can be attributed to local policies applied as a consequence of regional objectives which restricted delivery to secure both wider regional and local regeneration.

The Framework requires that where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. I note that Document SD 015 Housing Site Selection refers, at paragraph 3.4 to the "aim of the SHLAA is to identify sufficient deliverable sites to meet the District's five year housing supply (+20%)....".

Q7. Should I consider that the appropriate buffer to be applied in this case is 20%, can the Council demonstrate a five year housing land supply?

Q8. Could the Council please provide further five-year housing land supply calculations applying the 20% buffer to the sum of the base requirement + shortfall (2013-2015)? (In doing so, it would also be prudent to acknowledge the indication that proposed allocated site U19 is to be withdrawn by the land owner and so will not therefore be deliverable in years 0 – 5)

Q9. If the Council cannot demonstrate a five year housing land supply having applied a 20% buffer, what measures can the Council undertake to achieve a five-year housing land supply that includes a 20% buffer?

Paragraph 5.28 of the plan states that the SHMA suggests that 295 affordable homes per annum are required and it also suggests that the need will partially be met by the private rental sector supported by housing benefit. I note the comments contained in the SHMA in relation to the role of the private rental sector, particularly paragraph 5.28 (EB 002).

The Framework requires planning authorities to meet the housing needs of its area including affordable housing needs. There is no justification in the Framework or Guidance for reducing the identified need for affordable housing by the assumed continued role of the private rented sector. As the Council acknowledge, this category of housing does not come within the definition of affordable housing in the Framework. Accordingly, I have some concerns about reliance on the private rental sector to make up the shortfall in affordable housing provision.

The majority of the plan's proposed development will fall within Zone B, where Policy HO4 requires the provision of only 20% affordable housing from sites of 11 or more dwellings and so is a significant restriction on the amount of affordable housing that can be delivered.

Q10. What alternative solutions, if any, may be open to the Council to help deliver the required number of affordable homes? For example, what consideration has the Council given to increasing the total amount of housing to help deliver the required number of affordable homes? Would this be achievable in light of the total housing supply figure of 10,485 units (referred to in Table 1 of the Submitted Local Plan) and could such a solution be effective?

Gypsy and Traveller provision

The Planning Policy for Traveller Sites (PPTS) requires local planning authorities to identify a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets and identify a supply of specific, developable sites or broad locations for growth, for years six to ten and, where possible, for years 11 – 15.

The Cumbria Gypsy and Traveller Assessment (November 2013) (GTAA) identifies a pitch shortfall of five for the period 2013/14 to 2017/18, which is extrapolated to 15 over the Local Plan period.

Policy HO11 confirms that land has been allocated adjacent to Low Harker Dene for nine pitches to meet identified needs over the Plan period for gypsies and travellers (my emphasis). Paragraph 5.90 then refers to 15 pitches 'up to 2028'.

There appears to be inconsistencies between the pitch shortfall identified in the GTAA and that indicated in the Submission Local Plan and also between the policy and supporting text.

Q11. Could the Council please clarify how 9 pitches will meet the identified need over the plan period?

On receipt of the Council's response to these initial questions I will consider how the examination would be best progressed.

A response to these questions by 24 July 2015 would be appreciated.

Claire Sherratt

Housing and Planning Inspector appointed to examine the Carlisle District Local Plan